

DATE: APR 20 1979

In reply refer to: E-4-1
1-3-3 4.24-1

SUBJECT: Transfer of NPDES Federal Facilities Program Authority
Under Section 313 of the Clean Water Act to the State
of Hawaii - Action Memorandum

FROM: Paul De Falco, Jr. *Frank M. Covington, Acting R.A.*
Regional Administrator

TO: Marvin B. Durning
Assistant Administrator for Enforcement (EN-329)

Issue

Shall National Pollutant Discharge Elimination System (NPDES) program authority for Federal facilities be transferred to the State of Hawaii?

Discussion

The 1977 Amendments to the Clean Water Act authorizes states to assume NPDES authority over Federal facilities. On January 25, 1979, Hawaii requested this authority and provided an Attorney General's opinion that the Hawaii Department of Health has all of the necessary authority to administer the NPDES permit program for Federal facilities (See Tab A).

Assumption of NPDES authority, except for agencies and instrumentalities of the Federal Government, was transferred by the Administrator to Hawaii on November 28, 1974 (Tab B). The Memorandum of Agreement (MOA) was signed as part of the approval of Hawaii's NPDES program. A revision to that MOA to transfer Federal facilities coverage to Hawaii is attached (three signed copies) for the Assistant Administrator's signature on each copy (Tab C). Also attached is a copy of the public notice (Tab D) issued March 2, 1979. No comments were received by the close of the 30 day comment period.

Recommendation

The request from Hawaii to assume NPDES authority over Federal facilities pursuant to Section 313 of the Clean Water Act has been reviewed and is consistent with the March 10, 1978 Policy Guidance Memorandum from the Assistant Administrator for Enforcement and General Counsel covering transfer of authority. Therefore, I recommend that the request from the State of Hawaii to assume NPDES authority over Federal facilities be approved. A suggested letter to the Governor of Hawaii approving Hawaii's assumption of authority is enclosed (Tab E).

Decision of Regional Administrator

That the request from the State of Hawaii to assume NPDES authority over Federal facilities, pursuant to Section 313 of the Clean Water Act, be approved.

Approve: Frank M. Covington

Disapprove: _____

Date: 4-20-79

acting RA

Disposition

A letter to the Governor of Hawaii with a copy to the Director, Hawaii State Department of Health, Environmental Health Division has been prepared for signature of the Assistant Administrator for Enforcement (See Tab E).

Concurrence

Deputy Assistant Administrator
for Enforcement

Concur: Jeffrey G. Munn

Nonconcur: _____

Date: 5/7/79

Enclosures: Tab A - Attorney General's opinion
Tab B - NPDES Delegation letter
Tab C - MOA revision
Tab D - Public Notice
Tab E - Suggested letter to the Governor

Decision of Assistant Administrator for Enforcement

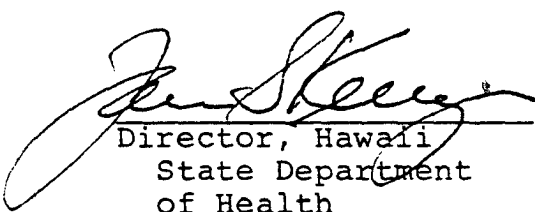
Approve: Martin B. Manning

Disapprove: _____

Date: 1 JUN 1979

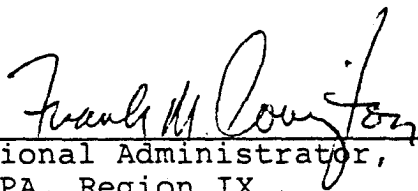
REVISION TO MEMORANDUM OF AGREEMENT
REGARDING PERMIT AND ENFORCEMENT PROGRAMS
(NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM)

Whenever the term "permittee" is used, it is understood to include Federal Agencies. Any provision of EPA's approval of the State program or of this agreement exempting Federal facilities from State authority is hereby null and void.


Director, Hawaii
State Department
of Health

date

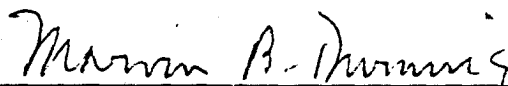
2/22/79


Regional Administrator,
EPA, Region IX

date

4-26-79

Approved:


Assistant Administrator for Enforcement,
Environmental Protection Agency

date

6-1-79